

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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<http://www.montgomerycountymd.gov/content/council/boa/board.asp>

Case No. A-6111

PETITION OF BRADLEY AND RENEE KOTZ
(Hearing held January 11, 2006)

OPINION OF THE BOARD
(Effective date of Opinion, March 2, 2006)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-.323(a). The petitioners propose the construction of a screened porch that requires a 18.85 foot variance as it is within twelve (12) feet of the established front building line. The required established building line is 30.85 feet.

The subject property is Lot P65, Block 5, Cabin John Park Subdivision, located at 6425 79th Street, Cabin John, Maryland, 20818, in the R-90 Zone (Tax Account No. 00482956).

Decision of the Board: Requested variance **granted**.

EVIDENCE PRESENTED TO THE BOARD

1. The petitioners propose the enclosure of an existing 13 x 24 foot deck into a screened porch.
2. The petitioners testified that their home was built in 1993 and that in 1998 they requested and received variances for the construction of an addition and a deck. The petitioners testified that their property is 50 feet wide and 200 feet long. The petitioners testified that their lot is exceptionally narrow and that the width of their lot is substandard for the zone. The petitioners testified that their property is a corner lot and that the application of the established building line literally runs through the middle of their lot, and that also coupled with the other required setbacks for the zone, the resulting buildable envelope is 12 feet in width. See, Exhibit No. 4(a) [site plan].
3. The petitioners testified that the proposed screened porch would be built on the existing deck and that the screened porch will not expand

or increase the footprint of the deck. The petitioners testified that the roof line of the porch would follow the roof line of the existing house and that the porch would be constructed of materials that matched their house. The petitioners testified that the screened porch will not change the character or scale of their house and that the porch would be in harmony with other improvements in the neighborhood. See, Exhibit No. 7 [photographs of existing deck].

FINDINGS OF THE BOARD

Based on the petitioners' binding testimony and the evidence of record, the Board finds that the variance can be granted. The requested variance complies with the applicable standards and requirements set forth in Section 59-G-3.1 as follows:

(a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.

The Board finds that the exceptional narrowness of the petitioners' lot, coupled with the application of the required setbacks, results in no reasonable buildable envelope for the subject property. The application of the established building line would run through the center of the petitioners' lot, resulting in a buildable envelope of 12 feet in width. The Board finds that the strict application of the zoning ordinance would result in practical difficulties to and an undue hardship upon the property owners. See, Exhibit Nos. 10(a) [zoning vicinity map] and 10(b) [tax map].

(b) Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions.

The Board finds that the variance requested for the construction of a screened porch is the minimum reasonable necessary.

(c) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any duly adopted and approved area master plan affecting the subject property.

The Board finds that the variance request will continue the residential use of the property and that the variance will not impair the intent, purpose, or integrity of the general plan or approved area master plan.

(d) Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.

The Board finds that the proposed construction will not expand or increase the footprint of the existing deck and that the variance will not be detrimental to the use and enjoyment of the neighboring and adjoining properties.

Accordingly, the requested variance of 18.85 feet from the required 30.85 foot established front building is granted subject to the following conditions:

1. The petitioners shall be bound by all of their testimony and exhibits of record, to the extent that such evidence and representations are identified in the Board's Opinion granting the variance.
2. Construction must be completed according to plans entered in the record as Exhibit Nos. 4(a) through 4(c) and 5.

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above be adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Donna L. Barron, seconded by Angelo M. Caputo, with Caryn L. Hines, Wendell M. Holloway and Allison Ishihara Fultz, Chair, in agreement, the Board adopted the foregoing Resolution.

Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

I do hereby certify that the foregoing
Opinion was officially entered in the
Opinion Book of the County Board of
Appeals this 2nd day of March, 2006.

Katherine Freeman
Executive Director

NOTE:

See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve (12) month period within which the variance granted by the Board must be exercised.

The Board shall cause a copy of this Opinion to be recorded among the Land Records of Montgomery County.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.